REMARKS

This paper is filed in response to the Office Action dated June 15, 2005. As this paper is filed on September 15, 2005 with a Request for Continued Examination, the paper is timely filed.

I. Status of Amendments

Claims 34, 35, 38, and 55-67 were pending prior to this response. By this amendment, applicants amend claim 34, 35, 38 and 67. Thus, claims 34, 35, 38, and 55-67 remain pending.

Because applicants originally paid for 3 independent claims and 20 total claims, no additional fee is due. If there are any additional fees or refunds required, the Commissioner is directed to charge or debit Deposit Account No. 13-2855.

II. Response to the June 15 Office Action

Claims 34, 35, 38, 55-58 and 60-67 are rejected under 35 U.S.C. 103 as allegedly unpatentable over Pascal et al. (WO 98/00210) in view of Giacalone, Jr. (U.S. 5,758,875), and claim 59 over Pascal et al. in view of Giacalone Jr. further in view of Okada (U.S. 4,508,345). As for the reasoning supporting these rejections, the Office Action of October 4, 2004 is incorporated by reference, at least as to claims 34, 35, 38, and 55-66. Applicants note that the October 4 Office Action admits, at page 3, that:

> Pascal fails to disclose playing the tournament game of chance
> at a first permitted rate of play and changing the rate of play to
> a second permitted rate of play to [sic., in response to] at least
> one selected game outcome of the at least one game of chance.

Giacalone, Jr. is instead relied upon for the missing teaching, citing the Abstract, col. 3:13-46 and col. 4:7-24. In support of this position, the June 15 Office Action adds, at page 3, that:

> [a]lthough a player rate of play is a function of the speed of the
> player interaction with the game, the rate of play may be
> modified in response to an outcome of at least one game
> outcome. For instance, in Pascal et al., a player plays as fast as
> they can to accumulate as many points as possible during

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tournament play. If a player has not accumulated many points as the time period progresses, a player may slow down the rate of play based on at least one losing outcome (or a combination of losing outcomes). On the other hand, give [sic, if] a player has accumulated a number of points as the time period progresses, the player may increase the rate of play based on at least one winning outcome (or a combination of winning outcomes) to accumulate more points before the time period expires.

Claim 34 recites a method of tournament gaming including providing a plurality of gaming devices adapted for tournament play and configured to play at least one game of chance at variable rates of play and initiating a tournament game of chance on at least one gaming device of the plurality of gaming devices. The method also includes playing the tournament game of chance at a first permitted rate of play as permitted by gaming device circuitry, relative to which the actual rate of game play may vary, and changing the permitted rate of play to a second permitted rate of play as permitted by gaming device circuitry, relative to which the actual rate of game play may vary, automatically in response to at least one selected game outcome of the at least one game of chance.

In support of the amendment made to claim 34, applicants cite paragraphs [0071], [0073]. In particular, applicants note the following passages:

> In a still further embodiment relating to the rate of play on a tournament gaming device, one or more specific outcomes on a game or one or more particular "winning combinations" may be used lead to a bonus situation in which a tournament player is allowed (permitted) to play at rate relatively faster than that normally permitted by gaming device circuitry in tournament play. . . . In another aspect of the subject embodiment, a player may receive an outcome or combination which results in a rate of play relatively slower than the rate of tournament play normally permitted. . . . One skilled in the art will appreciate that the "increased" and/or "reduced" rates of play on a tournament gaming device may be effected, for example, by programming of specific instructions into the ROM associated with a gaming device microprocessor.

From this passage, as applicants argued previously, it should be apparent that "permitted" rate of play does not refer to a rate of play determined by a player, but by the gaming machine, and relative to which actual rate of play may vary. The permitted rate of play may

be faster or slower than "normal" rate of play, but it is a rate of play that which is established by the gaming device circuitry (which may be instructions in a ROM, e.g.). Moreover, because the permitted rate of play is determined by the gaming device circuitry, to state that the permitted rate of play is changed is to state that the gaming device circuitry changes the permitted rate of play. Consequently, while claim 34 has been amended to add that the permitted rates of play are "as permitted by gaming device circuitry, relative to which the actual rate of game play may vary" and that the change in rates of play occurs "automatically," applicants submit that the meaning and scope of the claim has, in fact, not been changed as a result.

As stated by applicants previously, Giacalone Jr. observes "that where a player desires to play at a rate faster than the normal play rate, and *his accelerated physical interaction*, in inputting his money and making his selection or pulling a lever, has no effect on the play rate of the game, a degree of frustration sets in." Col. 2:1-5 (emphasis added). Giacalone Jr. proposes "*the frequency of player input [be] detected* and the game play time [be] changed to make it proportional *to such input*." Col. 2:20-22 (emphasis added); see also Col. 1:9-11 ("controlling the play rate of an electronic game *as a function of the speed of player interaction* with the machine running the game.") (emphasis added). Specifically, Giacalone Jr. states that the time between an "end of game" (not an outcome, let alone a selected outcome, but merely the end of any game with any outcome) signal and a "start" signal will be determined, and compared to a "rate control signal" and (col. 3:26-32):

> [i]f comparator 28 senses a positive comparison, indicating that
> the player has input a start signal at a time earlier than the
> present nominal time following the generation of the end of
> game signal, a play rate adjust signal will be generated at 32
> which will cause rate controller 34 to generate a rate control
> signal tending to increase the rate of play of the game.

Thus, Giacalone Jr. states that *a change in player input* causes a change in the rate of play of the game.

These statements from Giacalone Jr. show that Giacalone Jr. does not provide the missing disclosure, teaching or suggestion, even if one assumes for the moment that the combination of Pascal and Giacalone Jr. is proper. Giacalone Jr. emphasizes that responsiveness to the player's input is paramount, to avoid frustration and improve player

excitement. Giacalone Jr. thus states that the changes in rate of play should come about in accordance with the variations in *the player's input*. By contrast, claim 34 recites "changing the rate of play to a second permitted rate of play . . . *automatically in response to at least one selected game outcome* [e.g., a winning outcome, see claim 67] of the at least one game of chance", which would make the change insensitive to changes in the speed of the player's input. As such, Giacalone Jr. would teach away from the recited limitation of claim 34. Additionally, Giacalone Jr. states that the change will occur in the *actual* rate of play, while claim 34 recites that the *permitted* rate of play is changed, with the actual rate of play thus being capable of variation up to the permitted rate of play. Given that Giacalone Jr. does not provide the missing disclosure, teaching or suggestion of Pascal, the combination does not disclose, teach or suggest each and every limitation of claim 34, and the rejection should be withdrawn.

The further remarks of the June 15 Office Action cannot change the statements made in Giacalone Jr., discussed above, and the alleged teachings of Pascal relied upon to further support the rejection actually teach away from the rejection. As explained, Giacalone Jr., at best, only alters actual rate of play, not the permitted rate of play (relative to which the actual rate of game play may vary). Moreover, Giacalone Jr. does this in response to the player's actions, not automatically in response to an outcome of the game. In this regard, the suggestion that the player's actions may vary according to outcome, even if true, would not satisfy the claimed limitation, which requires that the change be automatic with the respect to the outcome. Furthermore, this entire line of argumentation is built on mere supposition about what a player may or may not do during game play. The sole reference cited to support the argument is Pascal, and it is admitted in the June 15 Office Action that Pascal would not teach one of skill in the art that a player's rate of play would vary in response to outcome, but instead that a player would play "full tilt" throughout: "For instance, in Pascal et al., a player plays as fast as they can to accumulate as many points as possible during tournament play." In any event, what Pascal says about how fast or slow a player might play does not lead to an understanding of Giacalone Jr. that discloses, teaches or suggests the missing limitation, because Giacalone Jr. still teaches variation in actual (not permitted) rate of play in accordance with the player's actions (not automatically).

Claims 35, 38, 55-58 and 60-67 depend from claim 34. Because the combination of Pascal and Giacalone, Jr. does not disclose, teach or suggest each and every limitation of the claimed subject matter of claim 34, as discussed above, claims 35, 38, 55-58 and 60-67 are allowable at least for the reason that they include all of the limitations of claim 34 by virtue of their dependency from claim 34. Consequently, these claims are also allowable.

In view of the foregoing, it is respectfully submitted that the above application is in condition for allowance, and reconsideration is respectfully requested. If there is any matter that the Examiner would like to discuss, the Examiner is invited to contact the undersigned representative at the telephone number set forth below.

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Respectfully submitted,

By _____
Paul C. Craane
    Registration No.: 38,851
MARSHALL, GERSTEIN & BORUN LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, Illinois 60606-6357
(312) 474-6300
Attorney for Applicant